

4-3-09

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

U.S. Patent No.: 4,927,855

Issue Date: May 22, 1990

Inventor: Louis Lafon

Title: Levorotatory Isomer of Benzhydrylsulfinyl Derivatives

Mail Stop Hatch-Waxman PTE

Attention: Mary Till

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Request for Interim Extension of Patent Term of U.S. 4,927,855
Under 35 U.S.C. § 156(e)(2) and 37 C.F.R. § 1.760

Sir:

Applicant requests that the Director extend the patent term of U.S. 4,927,855 under 35 U.S.C. § 156(e)(2) and 37 C.F.R. § 1.760 for a period of 335 days during the processing of the application for patent term extension for this patent, or until April 22, 2010. The current expiration date of U.S. 4,927,855 is May 22, 2009. The original expiration date of U.S. 4,927,855 was May 22, 2007.

This will be the last request for interim extension of patent term of U.S. 4,927,855. As noted below, the application for patent term extension requested 1066 days of patent term extension. With the granting of this last request, the patent term for U.S. 4,927,855 will have been extended from May 22, 2007 to April 22, 2010, or for 1066 days.

Applicant requests this interim extension of the patent to April 22, 2010 based on the following:

On May 7, 2007, Cephalon, Inc. filed an application under 35 U.S.C. § 156(d)(5) for an interim extension of US 4,927,855. An interim extension was granted for one year until May 7, 2008.

On June 15, 2007, the FDA approved the NDA for NUVIGIL™. The active ingredient in NUVIGIL™ is armodafinil or 2-[(R)-(diphenylmethyl)sulfinyl]acetamide, which is claimed in U.S. 4,927,855.

On July 26, 2007, Cephalon filed an application under 35 U.S.C. § 156 for an extension of the term of U.S. 4,927,855. This application for patent term extension requested 1066 days of patent term extension.

On August 13, 2007, the US PTO issued an order granting an interim extension of U.S. 4,927,855 under 35 U.S.C. § 156(e)(2) until August 13, 2008. This interim extension was granted because the extended term of the patent would have terminated 60 days (August 13, 2007) after the date of FDA approval of the NDA.

On July 1, 2008, Cephalon, Inc. filed a request for interim extension of the patent term under 35 U.S.C. § 156(e)(2) and 37 C.F.R. § 1.790(c) for US 4,927,855. An interim extension was granted for 282 days, or until May 22, 2009.

As of today's date, the Office continues to review the application for patent term extension and the processing of the application may extend beyond the May 22, 2009 expiration date of the patent.

Respectfully submitted,

Date: April 3, 2009

By: /Todd Spradau/
Todd Spradau
Registration No. 52,242

Cephalon, Inc.
41 Moores Road
P.O. Box 4011
Frazer, PA 19355
Tel. (610) 883-5679
Fax (610) 727-7651